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Editor's Note

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EDITOR'S NOTE

Welcome to the sixty-third Volume of the *Federal Communications Law Journal*, the nation's premier communications law journal and the official journal of the Federal Communications Bar Association. The works presented in this Issue reflect the *Journal's* commitment to providing its readership with interesting, important, and timely analysis in communications law and policy. The *Journal* staff is excited about the quality of the Essays, Articles, and Notes included in this Issue.

The Issue begins with a series of Essays presenting analysis of the future of digital communications from a variety of perspectives. The Essays were supported by Time Warner Cable's Research Program on Digital Communications¹ and are introduced by Fernando Laguarda, vice president for external affairs and policy counselor for Time Warner Cable.

The first Essay is by John Palfrey, a professor of law at Harvard Law School and codirector of the Berkman Center for Internet and Society at Harvard. Professor Palfrey presents his view on the connection between law and social science, focusing on youth media policy and the importance of creating policy that reflects current research on today's youth—the digital generation. The next Essay is by Dr. Nicol Turner-Lee, vice president and director of the Media and Technology Institute at the Joint Center for Political and Economic Studies, who discusses the importance of understanding the possibilities and challenges of using digital communications as a platform for civic engagement. Dr. Scott Wallsten, who is vice president and senior fellow at the Technology Policy Institute, then examines the approach policymakers have taken to broadband technology in his Essay, emphasizing the importance of researching the long-term impact of such technologies on the business sector. The next Essay is by Dale Hatfield, executive director of the Silicon Flatirons Center for Law, Technology, and Entrepreneurship at the University of Colorado, who discusses broadband technology and challenges policymakers to develop a deeper understanding of wireless and wireline technologies. In the final Essay, Christopher Yoo, professor of law at the University of Pennsylvania, focuses on the architecture of the Internet and calls for flexible Internet policymaking that will reflect the insight of engineers and network architects as the Internet continues to change in the future.

1. The Essays were made possible by research stipends from the Time Warner Cable Research Program on Digital Communications. These Essays reflect the opinions and perspectives of the individual Authors and may not reflect the format of traditional *Federal Communications Law Journal* Articles.

These Essays provide the opportunity for our readership to gain access to leading thinkers in their respective fields and to see the recommendations they offer in considering digital communications policy going forward. As always, we welcome readers' responses to these Essays.

This Issue also features a timely analysis of network neutrality in light of the recent decision rejecting the FCC's attempt to impose net neutrality regulations on Internet access provider Comcast. Lee Selwyn, president and founder of Economics and Technology, Inc., and Helen Golding, vice president of Economics and Technology, Inc., offer an analysis of how best to reach important net neutrality goals. Their Article takes the position that competition for retail, mass market Internet access should be permitted to develop, which in turn will operate to enforce the FCC's net neutrality principles.

Next, Akilah Folami, associate professor of law at Hofstra University School of Law, examines the role of radio in America's cultural history, specifically during the rise of rock and roll on commercial radio. During that time, according to the author, radio offered a new forum for discussion and deliberation in America that engaged a younger audience and permitted intergenerational and interracial discourse to play out. Through an analysis of history, cultural studies, and FCC localism rules, Professor Folami offers the position that the radio and music can, through diversity on the airwaves, play an important role in the deliberative process.

In the final Article, Angela Campbell, professor of law and director of the Institute for Public Representation at Georgetown Law, revisits *Pacifica Foundation v. FCC*, the 1978 Supreme Court decision that set the stage for the position the FCC would take on indecent speech in the decades since. With the recent Second Circuit decision finding that the FCC's prohibition on fleeting expletives was unconstitutionally vague, it is expected that the Supreme Court may reconsider its decision in *Pacifica*. Professor Campbell explores this possibility by providing a behind-the-scenes look at the history of *Pacifica* and the decision the Court reached in that case, ultimately concluding that such individual adjudications may not be the most appropriate vehicles for establishing indecency policy.

Our Notes, written by members of the *Journal* staff, continue the indecency theme with Brandon Almas's analysis of the make-up of the Supreme Court, and the implications for the future of indecency cases that may come before it. Mr. Almas applies various models of judicial decision making to attempt to predict the outcome of a case in which the Court reconsiders its stance on indecency, and evaluates the individual Justices to attempt to determine how they might side if and when this reconsideration occurs.

Next, Elizabeth Steele analyzes indecency policy in light of today's media environment and the unprecedented access to broadcast material that children have. Based on that level of access, Ms. Steele argues that the regulation of indecency is no longer effective or applicable, and instead works against the First Amendment's protections.

Finally, Jessica Meredith reviews the current status of cyberbullying laws in this country, and their effectiveness in combating the rising threat to youth who are socially active on the Internet. Ms. Meredith concludes that the best approach to successfully countering this threat is education, not criminalization.

The Editorial Board would like to express its appreciation to the authors whose works are included in this Issue. We would also like to thank the editors and the staff of the *Journal* who worked diligently over these past few months to edit these Articles and Notes for publication. Finally, we would like to extend our thanks to the Federal Communications Bar Association for its continued support and guidance.

The *Journal* is committed to providing its readership with broad coverage of important communications law and policy, and we welcome feedback about this Issue or submissions for future issues. We encourage our readers to explore our newly redesigned website, available at <http://law.indiana.edu/fclj>. In addition, any submissions for consideration in our future issues should be sent to fcljsae@indiana.edu. Finally, any questions or comments you might have about this Issue or our future issues are welcome, and can be sent to fclj@indiana.edu.

I anticipate a great year of communications scholarship, discussion, and analysis in the pages of the *Federal Communications Law Journal*.

Ann E. O'Connor
Editor-in-Chief